

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBERT VIGIL,

Plaintiff,

vs.

CITY OF ESPANOLA, CITY OF
ESPANOLA POLICE DEPARTMENT,
RAYMOND ROMERO, SALLY
BAXTER, and MARK TRUJILLO,

Defendants.

No. 1:20-cv-01265-PJK-SMV

ORDER DENYING MOTION FOR SUMMARY JUDGMENT (ECF No. 41)

THIS MATTER is before the court on the Defendants' Motion for Summary Judgment on Plaintiff's Claims filed September 17, 2021 (ECF No. 41). The court, being fully advised in the premises and the relevant law, finds that the motion is not well taken and should be denied.

Background

In this removal case, Plaintiff seeks compensatory damages including lost earnings under the Americans with Disabilities Act based on a failure to accommodate and disability discrimination. He also includes New Mexico Human Rights Act claims under the same theories. According to the complaint, the relevant time period is between May 18, 2017, when he sustained an off-duty injury to his shoulder and his termination on

November 14, 2017. Compl. ¶ 11.

Discussion

The parties are familiar with the facts, so the court need not restate them here. Defendants move for summary judgment on the basis that Plaintiff was not qualified to continue in his position as a police officer and that he failed to request a reasonable accommodation. The court has considered the parties' submissions in accordance with Federal Rule of Civil Procedure 56(a) and the standards set forth in Celotex Corp. v. Catrett, 477 U.S. 317 (1986), Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986), and Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986). Because genuine issues of material fact exist at this time, further proceedings will be required.

NOW, THEREFORE, IT IS ORDERED that Defendants' Motion for Summary Judgment on Plaintiff's Claims filed September 17, 2021 (ECF No. 41), is denied.

DATED this 4th day of November 2021 at Santa Fe, New Mexico.

Paul Kelly, Jr.
United States Circuit Judge
Sitting by Designation

Counsel:

Andrea K. Robeda, YLAQ, P.C., Albuquerque, New Mexico, for Defendants.
Betsy Salcedo, Salcedo Law PC, Albuquerque, New Mexico, for Plaintiff.